

By: Canales

H.B. No. 1441

A BILL TO BE ENTITLED

AN ACT

relating to accounting and payoff statements for certain seller-financed residential loans; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 343, Finance Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. SELLER-FINANCED RESIDENTIAL LOANS

Sec. 343.301. APPLICATION. This subchapter applies only to a seller-financed loan secured by a purchase money lien on residential real property that is not a federally related mortgage loan, as defined by 12 U.S.C. Section 2602.

Sec. 343.302. ANNUAL ACCOUNTING STATEMENT REQUIRED. (a) The lender shall provide to the borrower an accounting statement in January of each year for the term of the loan. If the lender mails the statement to the borrower, the statement must be postmarked not later than January 31.

(b) The accounting statement must include the following information:

(1) the amount paid toward the outstanding balance of the loan during the preceding calendar year, including separate amounts showing the total amount applied to interest and the total amount applied to principal;

(2) the remaining principal balance owed on the loan;

(3) the number of payments remaining on the loan;

1 (4) the amounts paid to taxing authorities on the
2 borrower's behalf if collected by the lender; and

3 (5) the amounts paid to insure the property on the
4 borrower's behalf if collected by the lender.

5 (c) Except as provided by Section 343.304, in addition to
6 any other legal and equitable remedy available, a lender under this
7 section who fails to comply with this section is liable to a
8 borrower who is injured by the violation for:

9 (1) a penalty in the amount of \$500;

10 (2) actual damages;

11 (3) court costs; and

12 (4) reasonable attorney's fees.

13 Sec. 343.303. PAYMENT CONSIDERED TIMELY. In a proceeding
14 related to a loan to which this subchapter applies, including an
15 action brought under Section 343.302(c), a loan payment is
16 considered to have been paid on the due date by the borrower if the
17 payment came due during a calendar year for which the lender did not
18 provide a required accounting statement to the borrower under
19 Section 343.302.

20 Sec. 343.304. OTHER PENALTIES AND LIABILITIES NOT
21 APPLICABLE. Chapter 349 does not apply to a violation of this
22 subchapter.

23 SECTION 2. Section 343.106, Finance Code, is amended by
24 adding Subsection (h) to read as follows:

25 (h) For purposes of providing a payoff statement required
26 under this section for a seller-financed loan to which Subchapter D
27 applies, a loan payment made to the lender is considered to have

1 been paid on the due date by the borrower if the payment came due
2 during a calendar year for which the lender did not provide a
3 required accounting statement to the borrower under Section
4 343.302.

5 SECTION 3. A lender is not required to provide an accounting
6 statement required by Section 343.302, Finance Code, as added by
7 this Act, before January 1, 2014.

8 SECTION 4. This Act takes effect September 1, 2013.